

## REMARKS

### **I. Introduction**

Claims 1-9 are currently pending in this application. Claims 1 and 6 have been amended. Support for the amendments to the claims is found for example, on page 2, lines 19 - page 3 line 12, page 7, lines 19-25 and page 10, lines 14-15 respectively. No new matter has been added.

For the following reasons, Applicants respectfully submit that the claims should be allowed and the application passed to issue.

### **II. Specification**

The Examiner objected to the abstract of the disclosure for containing multiple paragraphs. Applicants respectfully submit that the amendments to the specification obviates the objection.

### **III. Drawings**

The Examiner objected to Figure 12 for failing to include the designation "Prior Art." Applicants respectfully submit that replacement drawing sheet 11 obviates this objection. As such, it is respectfully requested that the objection be withdrawn.

### **IV. Claims Rejections Under U.S.C. § 112, second paragraph**

Claim 6 was rejected under U.S.C. § 112, second paragraph for allegedly being indefinite. The Examiner asserted that claim element "the side rims" lacked antecedent basis. Applicants respectfully submit that the amendment to claim 6 as supported by page 10, lines 14-15 obviates the rejection.

### **V. Claim Rejections rejected Under 35 U.S.C. § 103(a)**

Claims 1-3 and 5-9 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Harding U.S. 4,512,474 in view of Hartley et al U.S. 5,143,215, Shields

4,499,353 and Krzyzanowski U.S. 3,556,292. Applicants respectfully disagree. However, in order to expedite prosecution, independent claim 1 has been amended to further clarify the claimed subject matter.

Claim 1 recites in pertinent part that “said first, second and third cutting portions are each provided at different heights relative to a top edge of said hanging portion, such that said first, second and third cutting portions do not overlap with one another.”

In order to establish a *prima facie* obviousness rejection under 35 U.S.C. § 103(a), all the claim limitations must be taught or suggested by the prior art. *In re Rokya*, 490 F. 2d 981, 180 USPQ 580 (CCPA 1974). Further, “rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006). At a minimum, the cited prior art does not disclose (expressly or inherently) the above recited limitation that “said first, second and third cutting portions are each provided at different heights relative to a top edge of said hanging portion, such that said first, second and third cutting portions do not overlap with one another.”

For example, as shown in FIG. 8, first cutting portion 20, second cutting portion 21 and third cutting portion 6 are all at different heights relative to a top edge of the hanging member 3.

Furthermore at page 7, lines 19-25 the specification states that, this configuration of cutting lines at different heights, results in a stronger battery package,

the first cutting portion 6, the second cutting portion 20 and the third cutting portion 21 are provided at different heights when a battery package is constituted by folding back the holding body 8 to sandwich the hanging member 3. The provision of the respective cutting portions at different heights enables improvement in intensity of the battery package when hung for exhibition.

The Examiner does not assert that Harding, or Hartley disclose first, second and third cutting portions at different heights and relies on Kryzanowski for allegedly teaching this disclosure in Fig 4. (See page 4 of the office action).

However, as shown in Figs. 1 and 4 of Kryzanowski, the tear lines (11) and (20) are parallel and overlap with each other.

Furthermore, Kryzanowski specifically describes tear lines 11 and 20 as “overlying” (col. 3 lines 20-24) and “a second tear line extending across the second side panel and arranged parallel to the first tear line. . . the second tear line in registry with the first tear line . . .” (claim 4).

In contrast, the subject matter as claimed, requires that “said first, second and third cutting portions are each provided at different heights relative to a top edge of said hanging portion, such that said first, second and third cutting portions do not overlap with one another,” as shown for example in Figs. 1 and 8.

Furthermore, Harding discloses a plastic package (10) in which two hinged sections (11 and (12) are engaged with one another via a snap lock (19). Harding does not disclose any tear lines, let alone tear lines at different heights.

Similarly Hartley also does not teach or disclose, either expressly or inherently, tear lines at different heights. Hartley describes a battery package 10 with a front (12) and rear blister (13) that are joined together by a seam (14), Hartley does not teach or disclose any tear lines.

In addition, Shields also describes a reusable blister package “adapted to frictionally interlock,” (see abstract). The prior art reference does not teach any tear lines.

Moreover, it would not be obvious to modify any of the references in such a manner, as Harding, Hartley and Shields all disclose packages that have a snap-lock mechanism to open and

close a top and bottom part of the package. Neither of Harding, Hartley or Shields disclose any tearing of the package.

Moreover Shields teaches that the package is reusable, (see abstract). Therefore, at least the Shields reference teaches away from adding any tear lines to the package.

Thus, the cited prior art, taken alone or in combination with one another, at a minimum, fail to disclose or suggest this element of amended claim 1. As such, it is respectfully submitted that claim 1 is patentable over the cited prior art.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as independent claim 1 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable.

Thus, it is respectfully submitted that dependent claims 2-9 are also patentable for at least the same reasons as their respective base claims.

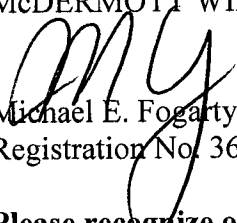
In view of the above amendments and remarks, Applicants submit that this application should be allowed and the case passed to issue. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated to expedite the prosecution of the application.

**Application No.: 10/532,606**

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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